

103D CONGRESS
1ST SESSION

S. 538

To amend title XIX of the Social Security Act to establish Federal standards for long-term care insurance policies, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 9 (legislative day, MARCH 3), 1993

Mr. PRYOR introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XIX of the Social Security Act to establish Federal standards for long-term care insurance policies, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Long-Term Care
5 Insurance Consumer Protection Act of 1993”.

6 **SEC. 2. ESTABLISHMENT OF FEDERAL STANDARDS FOR
7 LONG-TERM CARE INSURANCE POLICIES.**

8 (a) **IN GENERAL.**—Title XIX of the Social Security
9 Act is amended by adding at the end the following new
10 section:

1 “LONG-TERM CARE INSURANCE STANDARDS
2 “SEC. 1931. (a) IMPLEMENTATION OF POLICY
3 STANDARDS.—

4 “(1) IN GENERAL.—

5 “(A) NEW ISSUES.—No long-term care in-
6 surance policy (as defined in subsection (i))
7 may be issued, sold, or offered for sale in a
8 State on or after the date specified in para-
9 graph (4) unless—

10 “(i) the Secretary determines that the
11 State has established a regulatory program
12 that—

13 “(I) provides for the application
14 and enforcement of the standards es-
15 tablished under paragraph (3), and

16 “(II) complies with the require-
17 ments of paragraph (5),

18 by the date specified in paragraph (4), and
19 the policy has been approved by the State
20 commissioner or superintendent of insur-
21 ance under such program; or

22 “(ii) if the State has not established
23 such a program, the policy has been cer-
24 tified by the Secretary (in accordance with
25 such procedures as the Secretary estab-

lishes) as meeting the standards established under paragraph (3).

For purposes of this paragraph, the advertising or soliciting with respect to a policy, directly or indirectly, shall be deemed the offering for sale of the policy.

“(B) REVIEW OF STATE REGULATORY PROGRAMS.—The Secretary periodically shall review regulatory programs described in subparagraph (A)(i) to determine if they continue to provide for the application and enforcement of the standards established under paragraph (3).

“(2) SANCTIONS.—Any person who issues or renewa policy, on or after the date specified in paragraph (4), in violation of paragraph (1), is subject to a civil money penalty of not to exceed \$25,000 for each such violation. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under this paragraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

“(3) PROMULGATION OF STANDARDS.—

1 “(A) IN GENERAL.—If, within 12 months
2 after the date of the enactment of this section,
3 the National Association of Insurance Commis-
4 sioners (in this section referred to as the
5 ‘NAIC’) promulgates model standards that in-
6 corporate the requirements of subsections (d)
7 through (h), such standards shall apply under
8 paragraph (1).

9 “(B) DEFAULT.—If the NAIC does not
10 promulgate the model standards under subpara-
11 graph (A) by the deadline established in that
12 paragraph, the Secretary shall promulgate,
13 within 12 months after such deadline, a regula-
14 tion that provides standards that incorporate
15 the requirements of subsections (d) through (h)
16 and such standards shall be applied under para-
17 graph (1).

18 “(C) CONSULTATION.—In establishing
19 standards under this paragraph, the NAIC or
20 Secretary shall consult with a working group
21 composed of representatives of issuers of long-
22 term care insurance policies, consumer groups,
23 and other qualified individuals. Such represent-
24 atives shall be selected in a manner so as to as-

1 sure balanced representation among the inter-
2 ested groups.

3 “(D) LIMITED PREEMPTION.—The stand-
4 ards established under this paragraph preempt
5 provisions of State law which conflict with such
6 standards, but nothing in this section shall be
7 construed as preventing a State from applying
8 standards that provide greater protection to
9 policyholders of long-term care insurance poli-
10 cies.

11 “(4) DEADLINE FOR APPLICATION OF STAND-
12 ARDS.—

13 “(A) IN GENERAL.—Subject to subparagraph (B), the date specified in this paragraph
14 for a State is—

16 “(i) the date the State adopts the
17 standards established under paragraph (3),
18 or

19 “(ii) 1 year after the date such stand-
20 ards are first established,
21 whichever is earlier.

22 “(B) STATE REQUIRING LEGISLATION.—In
23 the case of a State which the Secretary identi-
24 fies, in consultation with the NAIC, as—

1 “(i) requiring State legislation (other
2 than legislation appropriating funds) in
3 order for the standards established under
4 paragraph (3) to be applied, but

5 “(ii) having a legislature which is not
6 scheduled to meet in 1994 in a legislative
7 session in which such legislation may be
8 considered,

9 the date specified in this paragraph is the first
10 day of the first calendar quarter beginning after
11 the close of the first legislative session of the
12 State legislature that begins on or after Janu-
13 ary 1, 1994. For purposes of the previous sen-
14 tence, in the case of a State that has a 2-year
15 legislative session, each year of such session
16 shall be deemed to be a separate regular session
17 of the State legislature.

18 “(5) ADDITIONAL REQUIREMENTS FOR AP-
19 PROVAL OF STATE REGULATORY PROGRAMS.—For
20 purposes of paragraph (1)(A)(i)(II), the require-
21 ments of this paragraph for a State regulatory
22 program are as follows:

23 “(A) CONSUMER ACCESS TO COMPLIANCE
24 INFORMATION.—

1 “(i) IN GENERAL.—The program
2 must provide for consumer access to com-
3 plaints filed with the State commissioner
4 or superintendent of insurance with respect
5 to long-term care insurance policies.

6 “(ii) CONFIDENTIALITY.—The access
7 provided under clause (i) shall be limited
8 to the extent required to protect the con-
9 fidentiality of the identity of individual pol-
10 icyholders.

11 “(B) ACCESS TO OTHER INFORMATION.—
12 The program must provide for consumer access
13 to information reported under subsection (c)(4).

14 “(C) PROCESS FOR APPROVAL OF PRE-
15 MIUMS.—The program must provide for a proc-
16 ess for approving or disapproving proposed pre-
17 mium increases with respect to long-term care
18 insurance policies and must establish a policy
19 for the holding of public hearings prior to ap-
20 proval of such a premium increase. No such
21 premium increase shall be approved (or deemed
22 approved) unless the proposed increase is ac-
23 companied by an actuarial memorandum which
24 supports the increase and which contains such

1 information as may be required under the
2 standards under paragraph (3).

3 **“(b) REGULATION OF SALES PRACTICES.—**

4 **“(1) DUTY OF GOOD FAITH AND FAIR DEAL-
5 ING.—**

6 **“(A) IN GENERAL.—**Each individual who
7 is selling or offering for sale a long-term care
8 insurance policy has the duty of good faith and
9 fair dealing to the purchaser or potential pur-
10 chaser of such a policy.

11 **“(B) PROHIBITED PRACTICES.—**An indi-
12 vidual is considered to have violated subpara-
13 graph (A) if the individual engages in any of
14 the following practices:

15 **“(i) TWISTING.—**Knowingly making
16 any misleading representation or incom-
17 plete or fraudulent comparison of any
18 health care insurance policy or insurers for
19 the purpose of inducing, or tending to in-
20 duce, any person to retain or effect a
21 change with respect to a long-term care in-
22 surance policy.

23 **“(ii) HIGH PRESSURE TACTICS.—**Em-
24 ploying any method of marketing having
25 the effect of, or intending to, induce the

1 purchase of long-term care insurance pol-
2 icy through undue pressure.

3 “(iii) COLD LEAD ADVERTISING.—
4 Making use directly or indirectly of any
5 method of marketing which fails to disclose
6 in a conspicuous manner that a purpose of
7 the method of marketing is solicitation of
8 insurance and that contact will be made by
9 an insurance agent or insurance company.

10 “(2) COMPLETION OF MEDICAL HISTORIES PRO-
11 HIBITED.—A person who is selling or offering for
12 sale a long-term care insurance policy may not com-
13 plete the medical history portion of an application.

14 “(3) PROHIBITION OF SALE OR ISSUANCE TO
15 MEDICAID BENEFICIARIES.—A person may not
16 knowingly sell or issue a long-term care insurance
17 policy to an individual who is eligible for medical as-
18 sistance (other than only as a qualified medicare
19 beneficiary) under this title.

20 “(4) PROHIBITION OF SALE OR ISSUANCE OF
21 DUPLICATE SERVICE BENEFIT POLICIES.—A person
22 may not sell or issue a service-benefit long-term care
23 insurance policy—

24 “(A) knowing that the policy provides for
25 coverage that duplicates coverage already pro-

4 “(B) for the benefit of an individual unless
5 the individual (or a representative of the indi-
6 vidual) provides a written statement to the ef-
7 fect that the coverage (i) does not duplicate
8 other coverage in effect under a service-benefit
9 long-term care insurance policy or (ii) will re-
10 place another service-benefit long-term care in-
11 surance policy.

12 In this paragraph, the term 'service-benefit long-
13 term care insurance policy' means a long-term care
14 insurance policy which provides for benefits based on
15 the amount and type of services furnished, rather
16 than on the amount of expenses incurred.

17 “(5) PROVISION OF OUTLINE OF COVERAGE.—
18 No person may sell or offer for sale a long-term care
19 insurance policy without providing to the purchaser
20 or potential purchaser (or representative) an outline
21 of coverage that complies with the standards estab-
22 lished under subsection (a)(3).

23 “(6) CIVIL MONEY PENALTY.—Any person who
24 sells, offers for sale, or issues a long-term care in-
25 surance policy in violation of this subsection is sub-

1 ject to a civil money penalty of not to exceed
2 \$25,000 for each such violation. The provisions of
3 section 1128A (other than the first sentence of sub-
4 section (a) and other than subsection (b)) shall
5 apply to a civil money penalty under this paragraph
6 in the same manner as such provisions apply to a
7 penalty or proceeding under section 1128A(a).

8 “(c) ADDITIONAL RESPONSIBILITIES OF ISSUERS.—

9 “(1) REFUND OF PREMIUMS.—If an application
10 for a long-term care insurance policy (or for a cer-
11 tificate under a group long-term care insurance pol-
12 icy) is denied or an applicant returns a policy or cer-
13 tificate within 30 days of the date of its issuance
14 pursuant to subsection (h), the issuer shall refund to
15 the applicant, not later than 30 days after the date
16 of the denial or return, any premiums paid with
17 respect to such a policy.

18 “(2) MAILING OF POLICY.—If an application
19 for a long-term care insurance policy (or for a cer-
20 tificate under a group long-term care insurance pol-
21 icy) is approved, the issuer shall transmit to the ap-
22 plicant the policy (or certificate) of insurance not
23 later than 30 days after the date of the approval.

24 “(3) INFORMATION ON DENIALS OF CLAIMS.—
25 If a claim under a long-term care insurance policy

1 is denied, the issuer shall, within 60 days of the date
2 of a written request by the policyholder or
3 certificate-holder (or representative)—

4 “(A) provide a written explanation of the
5 reasons for the denial, and

6 “(B) make available all information di-
7 rectly relating to such denial.

8 “(4) REPORTING OF INFORMATION.—The is-
9 sser of a long-term care insurance policy shall peri-
10 odically (not less often than annually) report to the
11 Commissioner or superintendent of insurance of
12 each State in which the policy is sold, and shall
13 make available to the Secretary, upon request, infor-
14 mation respecting—

15 “(A) the long-term care insurance policies
16 of the issuer that are in force,

17 “(B) the most recent premiums for such
18 policies and the premiums imposed for such
19 policies during the previous 5-year period,

20 “(C) the lapse rates, replacement rates,
21 and rescission rates for policies (by agent), and

22 “(D) the claims denied (as a percentage of
23 claims submitted) for such policies.

24 Information under this paragraph shall be reported
25 in a format specified in the standards established

1 under subsection (a)(3) to carry out this subsection.
2 For purposes of subparagraph (C), there shall not
3 be included as a lapse of policy such a lapse due to
4 the death of the policyholder. For purposes of sub-
5 paragraph (D), there shall not be included as a de-
6 nied claim a claim that is denied solely because of
7 the failure to meet a deductible, waiting period, or
8 exclusionary period.

9 “(5) ACCESS TO INFORMATION.—Each such is-
10 suer shall provide the Secretary and the Commis-
11 sioner or superintendent of insurance of each State
12 in which the policy is sold such information as the
13 Secretary, Commissioner, or superintendent, may re-
14 quest.

15 “(6) PROVISION OF OUTLINE OF COVERAGE
16 FOR RENEWALS.—Each issuer of a long-term care
17 insurance policy shall provide, at the time of renewal
18 of such a policy, an outline of coverage that meets
19 the applicable standards established pursuant to this
20 section.

21 “(7) MEDICAL ASSESSMENTS FOR THE ELDER-
22 LY.—Before issuing a long-term care insurance pol-
23 icy to an applicant who is 75 years of age or older,
24 if the policy is not guaranteed issue the issuer shall
25 obtain one of the following:

1 “(A) A report of a physical examination.

2 “(B) An assessment of functional capacity.

3 “(C) Copies of medical records.

4 “(8) CIVIL MONEY PENALTY.—Any issuer of a
5 long-term care insurance policy who—

6 “(A) fails to make a refund in accordance
7 with paragraph (1),

8 “(B) fails to transmit a policy in accord-
9 ance with paragraph (2),

10 “(C) fails to provide, make available, or re-
11 port information in accordance with paragraph
12 (3), (4), or (5),

13 “(D) fails to provide an outline of coverage
14 in violation of paragraph (6), or

15 “(E) issues a policy without obtaining cer-
16 tain information in violation of paragraph (7),

17 is subject to a civil money penalty of not to exceed
18 \$25,000 for each such violation. The provisions of
19 section 1128A (other than the first sentence of sub-
20 section (a) and other than subsection (b)) shall
21 apply to a civil money penalty under this paragraph
22 in the same manner as such provisions apply to a
23 penalty or proceeding under section 1128A(a).

24 “(d) REQUIREMENTS RELATING TO RENEWABIL-
25 ITY.—

1 “(1) IN GENERAL.—No long-term care insurance
2 policy may be canceled or nonrenewed for any
3 reason other than nonpayment of premium or material
4 misrepresentation.

5 “(2) CONTINUATION AND CONVERSION RIGHTS
6 FOR GROUP POLICIES.—

7 “(A) IN GENERAL.—Each group long-term
8 care insurance policy shall provide covered individuals with a basis for continuation or conversion in accordance with this paragraph.

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11 “(B) BASIS FOR CONTINUATION.—For purposes of subparagraph (A), a policy provides a basis for continuation of coverage if the policy maintains coverage under the existing group policy when such coverage would otherwise terminate and which is subject only to the continued timely payment of premium when due. A group policy which restricts provision of benefits and services to or contains incentives to use certain providers or facility, may provide continuation benefits which are substantially equivalent to the benefits of the existing group policy.

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23 “(C) BASIS FOR CONVERSION.—For purposes of subparagraph (A), a policy provides a

1 basis for conversion of coverage if the policy en-
2 tities each individual—

3 “(i) whose coverage under the group
4 policy would otherwise be terminated for
5 any reason, and

6 “(ii) who has been continuously in-
7 sured under the policy (or group policy
8 which was replaced) for at least 6 months
9 before the date of the termination,

10 to issuance of a policy providing benefits iden-
11 tical to, substantially equivalent to, or in excess
12 of, those of the policy being terminated, without
13 evidence of insurability.

14 “(D) TREATMENT OF SUBSTANTIAL
15 EQUIVALENCE.—In determining under this
16 paragraph whether benefits are substantially
17 equivalent, there shall be taken into consider-
18 ation the differences between managed care and
19 non-managed care plans.

20 “(E) GROUP REPLACEMENT OF POLI-
21 CIES.—If a group long-term care insurance pol-
22 icy is replaced by another long-term care insur-
23 ance policy purchased by the same policyholder,
24 the succeeding issuer shall offer coverage to all
25 persons covered under the old group policy on

5 "(e) BENEFIT STANDARDS.—

6 “(1) USE OF STANDARD DEFINITIONS AND
7 TERMINOLOGY AND UNIFORM FORMAT.—

16 “(B) CERTAIN VARIATION IN LANGUAGE
17 PERMITTED.—Such standards may permit the
18 use of non-uniform language, but only to the
19 extent required to take into account differences
20 among States in the licensing of nursing facili-
21 ties and other providers of long-term care.

22 “(2) DISCLOSURE.—

23 “(A) OUTLINE OF COVERAGE.—The out-
24 line of coverage for each long-term care insur-
25 ance policy shall include at least the following:

1 “(i) A description of the principal
2 benefits and coverage under the policy.

3 “(ii) A statement of the principal ex-
4 clusions, reductions, and limitations con-
5 tained in the policy.

6 “(iii) A statement of the terms under
7 which the policy (or certificate) may be
8 continued in force or discontinued, the
9 terms for continuation or conversion, and
10 any reservation in the policy of a right to
11 change premiums.

12 “(iv) A statement that the outline of
13 coverage is a summary only, not a contract
14 of insurance, and that the policy (or mas-
15 ter policy) contains the contractual provi-
16 sions that govern.

17 “(v) A statement of the value of the
18 policy (determined in accordance with
19 standard established to carry out this sub-
20 paragraph).

21 “(vii) A description of the terms, spec-
22 ified in subsection (h), under which a pol-
23 icy or certificate may be returned and pre-
24 mium refunded.

1 “(viii) Information on national aver-
2 age costs for nursing facility and home
3 health care and information (in graphic
4 form) on the relationship of the benefits
5 provided under the policy to such national
6 average costs.

7 “(ix) A statement of the percentage
8 limit on annual premium increases that is
9 provided under the policy pursuant to
10 paragraph (8).

11 “(x) Information (in graphic form) on
12 the projected effect of inflation on the
13 value of benefits provided under the policy
14 during a period of at least 20 years.

15 “(B) CERTIFICATES.—A certificate issued
16 pursuant to a group long-term care insurance
17 policy shall include—

18 “(i) a description of the principal ben-
19 efits and coverage provided in the policy;

20 “(ii) a statement of the principal ex-
21 clusions, reductions, and limitations con-
22 tained in the policy; and

23 “(iii) a statement that the group mas-
24 ter policy determines governing contractual
25 provisions.

1 “(C) LONG-TERM CARE AS PART OF LIFE
2 INSURANCE.—In the case of a long-term care
3 insurance policy issued as a part of or a rider
4 on a life insurance policy, at the time of policy
5 delivery there shall be provided a policy sum-
6 mary that includes—

7 “(i) an explanation of how the long-
8 term care benefits interact with other com-
9 ponents of the policy (including deductions
10 from death benefits);

11 “(ii) an illustration of the amount of
12 benefits, the length of benefit, and the
13 guaranteed lifetime benefits (if any) for
14 each covered person; and

15 “(iii) any exclusions, reductions, and
16 limitations on benefits of long-term care.

17 “(3) LIMITING CONDITIONS ON BENEFITS; MIN-
18 IMUM BENEFITS.—

19 “(A) IN GENERAL.—A long-term care in-
20 surance policy may not condition or limit
21 eligibility—

22 “(i) for benefits for a type of services
23 to the need for or receipt of any other
24 services,

1 “(ii) for any noninstitutional benefit
2 on the medical necessity for such benefit,

3 “(iii) for benefits furnished by li-
4 censed providers on compliance with condi-
5 tions which are in addition to those re-
6 quired for licensure under State law, or

7 “(iv) for custodial care (if covered
8 under the policy) only (I) to care provided
9 in facilities which provide a higher level of
10 care or (II) to care provided in facilities
11 which provide for 24-hour or other nursing
12 care not required in order to be licensed by
13 the State.

14 “(B) HOME HEALTH CARE SERVICES.—If
15 a long-term care insurance policy provides bene-
16 fits for home health care services, the policy—

17 “(i) may not limit such benefits to
18 services provided by registered nurses or li-
19 censed practical nurses;

20 “(ii) may not require benefits for such
21 services to be provided by a nurse or thera-
22 pist that can be provided by a home health
23 aide or other licensed or certified home
24 care worker acting within the scope of the
25 worker's licensure or certification;

1 “(iii) may not limit such benefits to
2 services provided by agencies or providers
3 certified under title XVIII; and

4 “(iv) must provide benefits for per-
5 sonal care services (including home health
6 aide and homemaker services), home health
7 services, and respite care in an individual’s
8 home.

9 “(C) NURSING FACILITY SERVICES.—If a
10 long-term care insurance policy provides bene-
11 fits for nursing facility services, the policy must
12 provide such benefits with respect to all nursing
13 facilities that are licensed in the State.

14 “(D) MINIMUM PERIOD OF COVERAGE.—
15 Each long-term care insurance policy shall pro-
16 vide benefits over a period of at least 12
17 consecutive months.

18 “(4) PROHIBITION OF DISCRIMINATION.—A
19 long-term care insurance policy may not treat bene-
20 fits under the policy in the case of an individual with
21 Alzheimer’s disease, with any related progressive de-
22 generative dementia of an organic origin, or with
23 any organic or inorganic mental illness differently
24 from an individual having another medical condition
25 for which benefits may be made available.

1 “(5) LIMITATION ON USE OF PREEXISTING
2 CONDITION LIMITS.—

3 “(A) INITIAL ISSUANCE.—

4 “(i) IN GENERAL.—Subject to clause
5 (ii), a long-term care insurance policy may
6 not exclude or condition benefits based on
7 a medical condition for which the policy-
8 holder received treatment or was otherwise
9 diagnosed before the issuance of the policy.

10 “(ii) 6-MONTH LIMIT.—A long-term
11 care insurance policy may exclude benefits
12 under a policy, during its first 6 months,
13 based on a condition for which the policy-
14 holder received treatment or was otherwise
15 diagnosed during the 6 months before the
16 policy became effective.

17 “(B) REPLACEMENT POLICIES.—If a long-
18 term care insurance policy replaces another
19 long-term care insurance policy, the issuer of
20 the replacing policy shall waive any time periods
21 applicable to preexisting conditions, waiting pe-
22 riod, elimination periods and probationary peri-
23 ods in the new policy for similar benefits to the
24 extent such time was spent under the original
25 policy.

1 “(6) USE OF FUNCTIONAL ASSESSMENT.—

2 “(A) IN GENERAL.—Each long-term care
3 insurance policy—

4 “(i) shall determine eligibility for, and
5 level of, benefits (other than for nursing
6 facility services) available under the policy
7 based on a professional assessment of the
8 policyholder’s functional ability, and

9 “(ii) shall specify the level (or levels)
10 of functional impairment required under
11 such an assessment to obtain benefits
12 other than for nursing facility services)
13 under the policy.

14 “(B) APPEALS PROCESS.—Each long-term
15 care insurance policy shall provide for an ap-
16 peals process, meeting standards established
17 under this subsection, for individuals who dis-
18 pute the results of an assessment conducted
19 under this paragraph.

20 “(7) INFLATION PROTECTION.—

21 “(A) OPTIONAL RIDER AT TIME OF INITIAL
22 ISSUANCE.—Each long-term care insurance pol-
23 icy shall permit the policyholder, at the time of
24 initial sale, an option of providing for inflation
25 protection described in subparagraph (B).

1 “(B) INFLATION PROTECTION DE-

2 SCRIBED.—The inflation protection described in
3 this subparagraph provides, at the time of each
4 annual renewal of a policy, for an increase of a
5 specified percentage (but not less than 5 per-
6 cent) in the dollar payment levels and the maxi-
7 mum payment limit on benefit coverage above
8 the levels or limit in effect during the previous
9 policy year. In applying this subparagraph, the
10 increases shall be compounded annually and the
11 policy may provide for rounding such an in-
12 crease to the nearest multiple of \$1 (in the case
13 of dollar payment levels) or \$100 (in the case
14 of the maximum payment limit).

15 “(8) SPECIFICATION OF LIMITS ON PREMIUM
16 INCREASES.—Each long-term care insurance policy
17 shall specify a limit on the percentage increase in
18 premiums for a policy that may be made in any be-
19 tween one policy year and the subsequent policy
20 year.

21 “(f) NONFORFEITURE.—

22 “(1) IN GENERAL.—Each long-term care insur-
23 ance policy shall provide that if the policy lapses
24 after the policy has been in effect for a minimum pe-
25 riod (specified under the standards under subsection

1 (a)(3)), the policy will provide without payment of
2 any additional premiums benefits equal to—

3 “(A) a percentage (specified under such
4 standards) of the benefits otherwise available at
5 term, or

6 “(B) such other type of benefits as such
7 standards may provide.

8 “(2) ESTABLISHMENT OF STANDARDS.—The
9 standards under subsection (a)(3)—

10 “(A) may not provide more than 2 addi-
11 tional types of benefits under paragraph (1)(B),
12 and

13 “(B) may provide that the percentage or
14 amount of benefits under paragraph (1) must
15 increase based upon the period of time in which
16 the policy was in effect.

17 “(g) LIMIT OF PERIOD OF CONTESTABILITY.—The
18 issuer of a long-term care insurance policy may not cancel
19 such a policy or deny a claim under the policy based on
20 fraud or misrepresentation relating to the issuance of the
21 policy unless notice of such fraud or misrepresentation is
22 provided within 6 months after the date of the issuance
23 of the policy.

24 "(h) RIGHT TO RETURN (FREE LOOK).—Each appli-
25 cant for a long-term care insurance policy shall have the

1 right to return the policy (or certificate) within 30 days
2 of the date of its delivery (and to have the premium re-
3 funded) if, after examination of the policy or certificate,
4 the applicant is not satisfied for any reason.

5 “(i) LONG-TERM CARE INSURANCE POLICY DE-
6 FINED.—

7 “(1) IN GENERAL.—In this section, except as
8 otherwise provided in this subsection, the term ‘long-
9 term care insurance policy’ means any insurance pol-
10 icy, certificate, or rider advertised, marketed, of-
11 fered, or designed to provide coverage for each cov-
12 ered person on an expense incurred, indemnity, pre-
13 paid, or other basis, for one or more diagnostic, pre-
14 ventive, therapeutic, rehabilitative, maintenance or
15 personal care services, provided in a setting other
16 than an acute care unit of a hospital. Such term in-
17 cludes a group or individual annuity or life insur-
18 ance policy or rider which provides directly (or which
19 supplements) long-term care insurance.

20 “(2) POLICIES EXCLUDED.—Except as provided
21 in paragraph (4), the term ‘long-term care insurance
22 policy’ does not include any medicare supplemental
23 policy (as defined in section 1882(g)) and any insur-
24 ance which is offered primarily to provide—

1 “(A) basic hospital expense coverage, basic
2 medical-surgical expense coverage, hospital con-
3 finement indemnity coverage, or major medical
4 expense coverage,
5 “(B) disability income or related asset-pro-
6 tection coverage,
7 “(C) accident only coverage,
8 “(D) specified disease or specified accident
9 coverage, or
10 “(E) limited benefit health coverage.

11 “(3) TREATMENT OF CERTAIN LIFE INSURANCE
12 POLICIES.—Except as provided in paragraph (4), the
13 term ‘long-term care insurance policy’ does not in-
14 clude life insurance policies—

15 “(A) which accelerate the death benefit
16 specifically for—
17 “(i) one or more of the qualifying
18 events of terminal illness,
19 “(ii) medical conditions requiring ex-
20 traordinary medical intervention, or
21 “(iii) permanent institutional confine-
22 ment;
23 “(B) which provide the option of a lump-
24 sum payment for those benefits; and

1 “(C) in which neither the benefits nor the
2 eligibility for the benefits is conditioned upon
3 the receipt of long-term care.

4 “(4) INCLUSION OF POLICIES MARKETED AS
5 LONG-TERM CARE INSURANCE.—The term ‘long-
6 term care insurance policy’ also means any product
7 which is advertised, marketed, or offered as long-
8 term care insurance.”.

9 (b) REPORT ON ASSESSMENT METHODS FOR FUNC-
10 TIONAL ABILITY.—Within 2 years after the date of the
11 enactment of this Act, the Secretary of Health and
12 Human Services shall submit to the Congress a report on
13 the different methods that may be used to conduct assess-
14 ments of functional ability described in section
15 1931(e)(6)(A) of the Social Security Act and the relative
16 effectiveness of each of such methods.

17 (c) REPORT ON SOLVENCY PROTECTION.—Within 2
18 years after the date of the enactment of this Act, the Sec-
19 retary of Health and Human Services shall submit to the
20 Congress a report on standards that may be applied to
21 assure the solvency of insurers with respect to long-term
22 care insurance policies.

23 (d) STUDY OF STANDARD MEASURE OF VALUE FOR
24 LONG-TERM CARE INSURANCE POLICIES.—The Secretary
25 of Health and Human Services shall provide for a study

1 to develop a standard measure of value for long-term care
2 insurance policies. Within 2 years after the date of the
3 enactment of this Act, the Secretary shall submit to the
4 Congress a report on such study.

5 **SEC. 3. INCREASE IN FUNDING FOR LONG-TERM CARE IN-**
6 **SURANCE INFORMATION, COUNSELING, AND**
7 **ASSISTANCE.**

8 The subsection (f) of section 4360 of the Omnibus
9 Budget Reconciliation Act of 1990 relating to authoriza-
10 tion of appropriations for grants is amended by inserting
11 before the period at the end the following: "and an addi-
12 tional \$20,000,000 for each of fiscal years 1994, 1995,
13 and 1996, to fund such grant programs for the purpose
14 of providing information, counseling, and assistance relat-
15 ing to the procurement of adequate and appropriate long-
16 term care insurance".

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